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Too Many Cooks in the Kitchen

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Too Many Cooks in the Kitchen: Examining the Major Obstacles to Achieving Peace in Syria's Civil War

Amanda Pitrof*

I. INTRODUCTION

As United States Senator George Mitchell noted in a discussion of peace negotiations in Northern Ireland, "Each human being is unique, as is each society. It follows logically, then, that no two conflicts are the same. Much as we would like it, there is no magic formula that, once discovered, can be used to end all conflicts."¹

Peace negotiations on an international scale often present a number of particularly difficult hurdles because the conflicts involved typically include ethnic, racial, or religious differences.² At the same time, these are high-stakes conflicts because failure to find a solution risks not only the loss of life, but third party military intervention, as well as political, economic, and social disruption.³ On a personal level, these conflicts tear apart towns,

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1. George J. Mitchell, *Toward Peace in Northern Ireland*, 22 FORDHAM INT'L L.J. 1136, 1139 (1999).

2. Leo F. Smyth, *International Mediation and Capitulation to the Routine*, 108 PENN ST. L. REV. 235, 235 (2003).

3. Max Fisher, *Everything is a Negotiation: How to Understand the Obama-Putin-Assad Standoff*, WASH. POST, Sept. 13, 2013, <http://www.washingtonpost.com/blogs/worldviews/wp/2013/09/13/everything-is-a-negotiation-how-to-understand-the-obama-putin-assad-standoff/>.

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villages, and families. Even those lucky enough to survive often find themselves displaced, stuck living in overpopulated refugee camps far from home.

And there is no playbook; no clear roadmap from violence to peace. Every conflict is colored by the ethnic, religious, political, and military interests of not just that particular country, but of the region and the rest of the world.⁴

The struggle for peace has been waged over and over, from Yugoslavia,⁵ to Iraq,⁶ to Northern Ireland,⁷ and elsewhere.⁸ Syria is no exception. It is a country with a history of violent conflict and political instability.⁹ The current regime is authoritarian to the extreme, and the range of competing religious interests is diverse.¹⁰ The civil war now consuming the country has claimed tens of thousands of lives, displaced millions, and thrown the country's future into question.¹¹ This article will first briefly examine the country's turbulent history and the development of the current conflict.¹²

4. Steve Gutterman, *Russia Says Iran Must be Invited to Syria Conference*, REUTERS, Nov. 5, 2013, available at <http://www.reuters.com/article/2013/11/05/us-syria-crisis-russia-idUSBRE9A40BP20131105>.

5. Keith Webb et al., *The Yugoslavian Conflict, European Mediation, and the Contingency Model: A Critical Perspective*, in RESOLVING INTERNATIONAL CONFLICTS: THE THEORY AND PRACTICE OF MEDIATION 171, 171-91 (Jacob Bercovitch ed., 1996).

6. Andrew K. Lavin, *Achieving Peace in Iraq Through Negotiations: Lessons Learned from the Northern Ireland Peace Process*, 24 OHIO ST. J. ON DISP. RESOL. 571, 573 (2009).

7. Mitchell, *supra* note 1, at 1138-40.

8. Darrel Menche, *Legalization and the Mediation of International Disputes: The Balkan Experience*, 23 CONN. J. INT'L L. 83, 83-84 (2007).

9. CIA, *Syria*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/sy.html> (last visited Nov. 1, 2013).

10. *Id.*

11. Erika Solomon, *Syria's Death Toll Now Exceeds 140,000: Activist Group*, REUTERS (Feb. 15, 2014), <http://www.reuters.com/article/2014/02/15/us-syria-crisis-toll-idUSBREA1E0HS20140215>.

12. *See infra*, Part II.

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Next, it will evaluate previous attempts to solve the conflict.¹³ Then, it will analyze the challenges in brokering peace.¹⁴ Ultimately, this article will try to offer potential avenues for resolution.¹⁵

Logically speaking, the use of mediation and negotiation as a means of avoiding or ending armed conflict is always preferred. Ending an armed conflict avoids further loss of life as well as the progressive devastation to a country's (or countries') infrastructure and economy. Building an understanding not just of the conflict itself, but also of the inherent obstacles to finding a solution, therefore, offers clear value. An analysis must highlight any common characteristics across such conflicts as well as the impact of transformative complications—in Syria, this would include the use of chemical weapons, which introduce a strong humanitarian interest to negotiations. As such, Syria offers a new case analysis to the ongoing study of conflict prevention and resolution.

II. A BRIEF HISTORY OF CONFLICT IN SYRIA

The history of Syria is a complex one, indelibly tied to the problems it currently faces in its peace negotiations. This section will attempt to lay out the relevant highlights of that history as simply as possible, recognizing that to do a thorough job could fill a library.

So often in unstable countries, strife arises between groups with ethnic, religious, or ideological differences who are forced to live within artificially,

13. *See infra* Part III.

14. *See infra* Part IV.

15. Since the initial drafting of this article in February 2014, Syria has seen a rapid escalation of its once-internal political unrest. Third parties are no longer merely a looming threat, and the dynamics of the conflict have radically shifted with the emergence of the Islamic State. The bulk of this article will remain an examination of Syria's conflict as it stood in early February 2014. *See infra*, Addendum, however, for a brief reflection on the conflict since that time and the effects of those changes on the issues addressed in this article.

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and even arbitrarily, drawn borders. Many of these countries have boundaries drawn by colonial powers bartering between themselves for political and economic gain. Once these nations vacated, the newly born countries found themselves in a power vacuum, populated by groups with nothing in common but this new citizenship. Syria fits squarely within this category. Its borders were drawn by the Allied powers as part of the San Remo Conference following the end of World War I.¹⁶ The country remained under the control of France and Great Britain until it was granted independence in 1946.¹⁷

When the last French troops departed, “Syria” was a county whose borders were drawn around various Muslim, Christian, and even Jewish communities.¹⁸ Within the Muslim population alone, there are several active factions, including Sunnis (which includes approximately 75% of the population),¹⁹ Alawites (a small minority including current President Bashar al-Assad and the majority of the current regime),²⁰ and Druze (an unorthodox branch of Shia Islam).²¹ Where those three major sects were originally separated into autonomous regions by the French,²² independence brought territorial unification.²³

Perhaps unsurprisingly, the first decades of Syrian independence were marked by violence and a series of military coups as various groups vied for

16. *San Remo Conference*, COUNCIL ON FOREIGN RELATIONS, <http://www.cfr.org/israel/san-remo-resolution/p15248>.

17. CIA, *supra* note 9.

18. *Id.*

19. *Id.*

20. Max Fisher, *The ‘Alawite Lane,’* WASH. POST, Mar. 15, 2013, <http://www.washingtonpost.com/blogs/worldviews/wp/2013/03/15/the-alawite-lane/>.

21. CIA, *supra* note 9.

22. *Syria Profile: A Chronology of Key Events*, BBC, <http://www.bbc.co.uk/news/world-middle-east-14703995> (last visited Jan. 1, 2014) [hereinafter *Syria Profile*].

23. *Syria*, ENCYCLOPEDIA BRITANNICA, <http://www.britannica.com/EBchecked/topic/578856/Syria/29922/World-War-II-and-independence> (last visited Jan. 1, 2014).

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control.²⁴ In the first decade following the departure of the last French troops, the country had twenty different cabinets and drafted four divergent constitutions.²⁵ In 1949 alone, the military led three coups.²⁶ It was not until Hafiz al-Assad took power in a bloodless coup in 1970 that the country found some stability. As a member of the Alawi sect of Islam, Assad initially distanced the government from religion, amending the constitution to remove the requirement that the country's president be a Muslim.²⁷ The secular shift was short-lived. Stability was maintained through brutality,²⁸ and after the Sunni Muslim community and the Muslim Brotherhood led a series of failed riots, Hafiz al-Assad once more began to stress the importance of Syria's adherence to Islam.²⁹ A series of so-called "emergency laws" allowed the regime to lift protection for individual freedoms at will.³⁰ Seven additional emergency laws and amendments followed, suspending personal liberties and further strengthening the president's position.³¹ These laws, which remained in effect until the uprising of 2011, authorized arbitrary arrests and detention and suspended the protection of due process.³² Under these rules, the regime's security officers could issue arrest orders without the authority of a court and without oversight from the government.³³ Mass arrests and security sweeps fell within the scope of these rules.³⁴ Another measure passed in 1979 following

24. CIA, *supra* note 9.

25. *Syria Profile*, *supra* note 22.

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. Farid N. Ghadry, *Syrian Reform: What Lies Beneath*, MIDDLE E. Q., Winter 2005, at 61-70, available at <http://www.meforum.org/683/syrian-reform-what-lies-beneath>.

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

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attacks by the Muslim Brotherhood on a number of military cadets made membership in the organization a crime punishable by death.³⁵

When Sunni Muslim activists launched a massive protest in the city of Hama in 1982, Assad's brutality reached its zenith.³⁶ For days, troops hit the city with artillery fire, razing the city and killing an estimated 20,000 people.³⁷ The massacre is now considered the single biggest attack by an Arab ruler on his own people in the modern era.³⁸ An entire city was demolished, but the rebellion was effectively neutralized—an outcome the Assad regime would seek again later.

In June of 2000, Hafez al-Assad died, and was succeeded by his second son, Bashar.³⁹ On his ascension, the new president promised to build "a better society" for his people, and soon after ordered the release of 600 political prisoners.⁴⁰ Optimism abounded for a more democratic Syria. Diplomatic relations were restored with Iraq and Lebanon for the first time in decades, and the European Union re-launched a dialogue with Damascus as relations with the West gradually improved.⁴¹ As was the case during Hafez's reign, however, the policy did not last.

Tensions with the West began to escalate in 2007 after the United Nation's nuclear watchdog, the International Atomic Energy Agency

35. *Id.* A number of those killed were Alawites, the minority religious sect to which the Assad family and the bulk of its regime belong. *Id.*

36. 1982: Syria's President Hafez al-Assad Crushes Rebellion in Hama, GUARDIAN, Aug. 1, 2011, <http://www.theguardian.com/theguardian/from-the-archive-blog/2011/aug/01/hama-syria-massacre-1982-archive> [hereinafter *Hama Rebellion*].

37. *Id.*

38. *Id.*

39. Ghadry, *supra* note 30. It is worth noting that Bashar was never expected to assume power. Bashar al-Assad, ENCYCLOPEDIA BRITANNICA, <http://www.britannica.com/EBchecked/topic/711020/Bashar-al-Assad> (last visited Dec. 20, 2014). The second son, Bashar, was trained as an ophthalmologist in London. *Id.* It was only after his elder brother, Bassel, was killed in a car crash in 1994 that Bashar became Syria's next-in-line. *Id.*

40. Ghadry, *supra* note 30.

41. *Syria Profile*, *supra* note 22.

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(IAEA), uncovered traces of man-made uranium at two separate sites in Syria.⁴² The United States accused Assad's regime of attempting to produce weapons of mass destruction and levied new sanctions against Damascus.⁴³

To hasten matters, corruption was—and is—widespread in Syria. Experts estimated that as much as 85% of Syrian oil profits were diverted to the Assad family and its collaborators.⁴⁴ At \$55 per barrel,⁴⁵ the 600,000 barrels per day produced by Syria's oil fields generated \$12 billion, and yet in 2003, Syria's total budget was only \$8.4 billion, including non-oil trade and taxation.⁴⁶

Spurred by spirited uprisings in Tunisia and Egypt and protests in Libya, a Syrian revolt began in March of 2011.⁴⁷ Activists called for a "Day of Rage," demanding the repeal of the emergency laws, release of political prisoners, and removal of corrupt officials originally appointed by the Assad regime.⁴⁸ Several protestors were arrested for displaying graffiti calling for the downfall of Assad's regime.⁴⁹ Despite widespread arrests by security forces, demonstrations continued. Within months, the crackdown ratcheted upward as electricity, water, and cell service were cut off.⁵⁰ Assad ordered thousands of troops, along with tanks and snipers, to quell the protests, firing on civilians as often as active combatants.⁵¹ Assad accused the protestors of

42. *Id.*

43. *Id.*

44. Ghadry, *supra* note 30.

45. This is an extremely conservative estimate. See *Short-Term Energy and Winter Fuels Outlook*, U.S. ENERGY INFO. ADMIN. (Oct. 7, 2014); <http://www.eia.gov/forecasts/steo/report/prices.cfm>.

46. Ghadry, *supra* note 30.

47. CIA, *supra* note 9.

48. Associated Press, *Syrian Uprising Timelines of Key Events*, POLITICO, Sept. 9, 2013, <http://www.politico.com/story/2013/09/syria-timeline-96270.html> [hereinafter *Uprising Timelines*]; *Syria Profile*, *supra* note 22.

49. *Uprising Timelines*, *supra* note 48.

50. *Id.*

51. *Id.*

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being Israeli agents, but also announced several conciliatory measures in an effort to end the rebellion.⁵² Dozens of political prisoners were released, government officials were dismissed, and the emergency laws were repealed.⁵³ But the protests continued unabated.⁵⁴ In July, opposition forces met in Istanbul, Turkey to form a unified opposition.⁵⁵

III. THE INTERNATIONAL COMMUNITY'S REACTION AND EARLY ATTEMPTS FOR RESOLUTION

The West was quick to decry the government's crackdown on protestors. As the strife continued, several members of the United Nations (U.N.) Security Council attempted to pass a resolution denouncing the Assad regime and calling for Assad himself to step down.⁵⁶ Russia and China vetoed the effort, first in October 2011 and again in February 2012.⁵⁷ In November 2011, one month after the first resolution failed, the Arab League voted to suspend Syria's membership to the group, imposing sanctions and accusing Assad's government of "failing to implement an Arab peace plan."⁵⁸

There was renewed hope for resolution in late 2011 when Syria agreed to an Arab League initiative, allowing a monitoring mission into the

52. *Syria Profile*, *supra* note 22.

53. The repeal, of course, did nothing to curb the mass arrests conducted by the security forces. *Id.*

54. *Id.*

55. *Id.* Since that time, however, the opposition movement has struggled for cohesion, and any attempt to bring all opposition members to the negotiation table consistently fail. See *infra* for discussion of the opposition's shortcomings as a cohesive group.

56. *Id.*

57. *Id.*

58. *Id.*

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country.⁵⁹ Within two months, however, the mission was suspended, and both sides traded accusations of duplicity and bias.⁶⁰

By August of 2012, the U.N. General Assembly passed its own resolution over the protests of Russia, China, and several other members demanding that Assad resign.⁶¹ Frustrated by the lack of progress, Kofi Annan resigned as special peace envoy of both the U.N. and the Arab League.⁶² Mr. Annan blamed the intractability of the Syrian government, the militarization of the Syrian rebels,⁶³ and the failure of the U.N. Security Council to rally behind his efforts.⁶⁴

The U.N. brokered another cease-fire in October of 2012, but the peace was brief, and the mission was soon suspended.⁶⁵ Tensions would quickly accelerate in August of 2013 when allegations arose that the Assad regime utilized chemical weapons in a strike on the outskirts of Damascus.⁶⁶ A U.N. investigation uncovered the deaths of over 300 civilians, and Western

59. *Id.*

60. The Arab League monitors accused the Assad regime of “escalating the security situation,” while Syria insisted that the monitor mission was only intended to pressure the U.N. Security Council into approving foreign intervention. CNN Wire Staff, *Amid Violence, Arab League Suspends Observer Mission in Syria*, CNN (Jan. 28, 2012), <http://www.cnn.com/2012/01/28/world/meast/syria-unrest/>.

61. *Syria Profile*, *supra* note 22.

62. Rick Gladstone, *Resigning as Envoy to Syria, Annan Casts Wide Blame*, N.Y. TIMES, Aug. 2, 2012, http://www.nytimes.com/2012/08/03/world/middleeast/annan-resigns-as-syria-peace-envoy.html?pagewanted=all&_r=0.

63. See *infra* Part III (discussing the arming of Syrian rebels by third parties).

64. Gladstone, *supra* note 62 (“[W]ithout serious, purposeful and united international pressure, including from the powers of the region, it is impossible for me, or anyone, to compel the Syrian government in the first place, and also the opposition, to take the steps necessary to begin a political process. . . . It is clear that President Bashar al-Assad must leave office[.]”).

65. *Syria Profile*, *supra* note 22.

66. A recent U.S. human rights report identified the attack “as one of ‘many horrors in a civil war filled with countless crimes against humanity, from the torture and murder of prisoners to the targeting of civilians with barrel bombs and Scud missiles.’” *Syrian Civil War “Horrors” Lead U.S. Human Rights Report*, BBC (Feb. 27, 2014), <http://www.bbc.com/news/world-us-canada-26377552> [hereinafter *Civil War Horrors*].

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powers, the United States in particular, threatened retaliatory missile strikes.⁶⁷ The violation of humanitarian law sparked public outrage in addition to political fallout. For several days, the conflict looked poised to expand from what was essentially a civil war⁶⁸ (and a political conflict) to a regional, or even global, military conflict with the introduction of third party military forces.⁶⁹ It was narrowly avoided with the introduction of U.N. Security Council resolution 2118, demanding the destruction or removal of Syria's chemical stockpile by mid-2014.⁷⁰

As of February 2014, an estimated 140,000 people had been killed in the civil war, including 7,000 children.⁷¹ Another 3.5 million people were displaced within Syria's borders, and 2.5 million others abandoned Syria for neighboring countries.⁷² The number of refugees was expected to double by the end of the year.⁷³

67. *What is the Geneva II Conference on Syria?*, BBC (Jan. 22, 2014), <http://www.bbc.com/news/world-middle-east-24628442> [hereinafter *Geneva II Conference*].

68. It cannot be overlooked that as it stood in early 2014, the Syrian civil war is not limited to Syrian combatants. International volunteers and extremists seeking to participate in what they viewed as a "holy war" were present, but at the time of this writing, their numbers were incredibly limited in comparison to the number of troops that would likely be introduced by a third party.

69. *Geneva II Conference*, *supra* note 67.

70. S.C. Res. 2118, ¶ 5, U.N. Doc. S/RES/2118 (Sept. 27, 2013), available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2118.pdf.

71. Solomon, *supra* note 11.

72. The report estimates that nearly 900,000 refugees reside in Lebanon, 600,000 in Turkey, 590,000 in Jordan, 215,000 in northern Iraq, 135,000 in Egypt, 20,000 in North Africa, and 30,000 elsewhere. *Syrians Internally Displaced by War Expected to Nearly Double to 6.5 Million by Year's End*, UN NEWS CENTRE (Feb. 5, 2014), <http://www.un.org/apps/news/story.asp?NewsID=47084#.VFF8qPnF98F> [hereinafter *Syrians Internally Displaced*].

73. *Id.*

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A. Attempts at International Action

Lack of consensus within the international community has hampered efforts to ease the crisis. An international coalition (later known as the Action Group for Syria), consisting of the U.N., Arab League, and EU (China, France, Russia, the U.K., the U.S., and Turkey, Iraq, Kuwait and Qatar) met in June 2012 to discuss the conflict, ultimately writing what has become known as the Geneva Communiqué.⁷⁴ The pact called for the creation of a transitional Syrian government and a clear plan for elections, noting that any political solution to the conflict would need to meet several conditions.⁷⁵ However, even as the plan was announced, delegations from the U.S. and Russia publicly disagreed on Assad's role in the transitional government.⁷⁶

A similar plan was outlined a year later at the G8 meeting in Northern Ireland. In the wake of the Assad regime's chemical weapon attacks in the summer of 2013, the group outlined a seven-step plan for peace, condemning the use of chemical weaponry, supporting the creation of a non-sectarian government,⁷⁷ and calling once more for a transitional

74. The gathering later became known as the Geneva I conference. Action Group for Syria, *Final Communiqué*, U.N. (June 30, 2012), available at <http://www.un.org/News/dh/infocus/Syria/FinalCommuniquéActionGroupforSyria.pdf> [hereinafter *Geneva Communiqué*].

75. *Id.* at 3-4. The communiqué declared that “[a]ny political settlement must deliver a transition that: [o]ffers a perspective for the future that can be shared by all in Syria; [e]stablishes clear steps according to a firm time-table towards the realization of that perspective; [c]an be implemented in a climate of safety for all, stability and calm; [and i]s reached rapidly without further bloodshed and violence and is credible.” *Id.* at 2.2.

76. *UN Envoy Calls for Transitional Government in Syria*, BBC (June 30, 2012), <http://www.bbc.com/news/world-middle-east-18650775>.

77. *G8 Leaders Agree to 7-point Plan on Syria as Summit Wraps*, CBC NEWS (June 18, 2013), <http://www.cbc.ca/news/world/g8-leaders-agree-to-7-point-plan-on-syria-as-summit-wraps-1.1329796> [hereinafter *G8 Plan*].

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government.⁷⁸ Perhaps most importantly, the group vowed to “maximize the diplomatic pressure” to bring all involved parties to the table.⁷⁹

A second conference—the Geneva II Conference—was organized to engage the Assad regime with the National Coalition for Syrian Revolutionary and Opposition Forces.⁸⁰ While considered mildly successful in bringing both sides together, that achievement was mitigated by several factors. Though present, the Syrian government announced that its official delegation had no plans “to hand over power to anyone,”⁸¹ characterizing the ongoing conflict as a “war against terrorism.”⁸² As for the opposition coalition, only “intense pressure” from its allies persuaded most of the group’s leaders to make an appearance.⁸³ One-third of the active members flatly refused to attend a vote on whether to participate, and the Syrian National Council—the largest block within the coalition—reportedly announced plans to abandon the coalition, refusing to attend any peace negotiations until Assad agreed to leave power.⁸⁴ As of the drafting of this article, no agreement had been reached at the Geneva II Convention.

As it stands, the Syrian civil war has cost hundreds of thousands of lives on both sides, caused widespread conflict, and resulted in the destruction of many of the country’s major cities. When this struggle is finally resolved, rebuilding will take billions of dollars in aid. As it is, Syria’s neighbors are already feeling the strain as tens of thousands of refugees stream across their borders. Both sides of the conflict are entrenched, refusing to even approach the negotiation table without a sign of capitulation from the other. To make matters worse, both sides have been equipped with weaponry from third

78. Once again, a transitional government was demanded without a consensus regarding Bashar al-Assad’s role in that transition. *Id.*

79. *G8 Plan*, *supra* note 77.

80. *Geneva II Conference*, *supra* note 67.

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

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party nations guarding their interests. The hurdles facing resolution abound, but the next section of this article will attempt to identify the major obstacles and offer possible remedies.

IV. THE BIGGEST HURDLES TO PEACE NEGOTIATIONS AND THEIR PROPOSED SOLUTIONS

Problem #1: Are negotiations even likely to bring peace? At this point, the possibility of brokering peace through one-to-one negotiations between the Assad regime and opposition forces appears to be a long shot. Both sides have dug in, refusing to even appear at the negotiation table without concessions the other is unwilling (nor are they realistically likely) to grant. As large portions of Syria's opposition coalition refuse to even appear for negotiations until Assad relinquishes power, the government continues to regard the opposition movement as a product of internal and external terrorism.⁸⁵ Left to their own devices, there is little hope for reconciliation. It seems more likely the two will escalate violence in an effort to gain an advantage.⁸⁶

Proposed Solution: The use of mediation, with the involvement of a neutral third party to direct discussions and act as an unbiased go-between, is the better option. Geneva II demonstrated the success of forcing the two sides to the table through diplomatic pressure, suggesting that bringing in a third party would at least have some usefulness in raising hopes for a temporary cease-fire and engagement in discussions from both sides. Of course, mediation brings its own set of problems.⁸⁷ To start with, there does not seem to be a consensus as to who should be at the table to represent each side.

85. *Id.*

86. This was already seen when the Assad regime resorted to the use of chemical warfare on innocent civilians.

87. See *infra* Problem #5 (discussing the difficulties in choosing such an arbitrator, as well as combatting international interests and dealing with international scrutiny).

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Problem #2: Who should be at the table? The first step in attempting peace negotiations must be determining who should represent the opposing factions. The nature of Syria's opposition movement makes this particularly difficult. As discussed earlier, this conflict encompasses a full range of diverse groups, from secular to extremist.⁸⁸ Numerous groups consider themselves a part of the opposition movement, but finding a means of unifying has been difficult. The Syrian National Coalition,⁸⁹ an umbrella group formed in Istanbul, considers itself the leadership of the opposition and is recognized by the Arab League and several countries (including the United States)⁹⁰ as the true "representative" of the Syrian people.⁹¹ Yet some Syrians disagree, arguing that the Group cannot be truly representative of what began as a popular uprising since it is dominated by exiles and Muslim Brotherhood sympathizers.⁹² Some even accuse the group of being manipulated by the Arab League.⁹³ Dozens of other groups (both diplomatic and armed opposition groups) consider themselves a part of the opposition movement, ranging from the more moderate⁹⁴ to the extremists motivated by sectarian interests.⁹⁵ Each has a diverging opinion not only on the future of Bashar al-Assad's regime, but on what should follow.⁹⁶ None of these fringe organizations currently have a seat at the negotiations table, and without representation for their interests, they continue to fight with total disregard

88. See *supra* Part II.

89. Initially called the Syrian National Council, the Coalition was a new iteration created in 2012. *Syria Profile*, *supra* note 22.

90. Britain, France, Turkey, and the Gulf states also recognize Syria's opposition National Coalition as "the legitimate representative" of the Syrian people. *Syria Profile*, *supra* note 22.

91. *Id.*; see S.B., *Who Are the Syrian Opposition?*, THE ECONOMIST (June 19, 2013), <http://www.economist.com/blogs/economist-explains/2013/06/economist-explains-12>.

92. *Syria Profile*, *supra* note 22.

93. *Id.*

94. This includes Liwa al-Taheed, which is at least believed to be part of the Supreme Military Command, headed by a defected brigadier-general with the Coalition. *Id.*

95. This includes Jabhat al-Nusra, which is affiliated with al-Qaeda. *Id.*

96. *Id.*

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for the proceedings in Geneva.⁹⁷ Such “behind the table” conflicts serve as a major barrier to progress at peace negotiations.⁹⁸ Moreover, a peace agreement satisfying the Assad regime and only select groups within the opposition is unlikely to end these “behind the table” disagreements within the opposition community and, therefore, offers little hope for resolution.⁹⁹

Proposed Solution: These are issues to be worked out within the opposition movement. Any hopeful mediation must begin with a unified opposition devoted to negotiating a settlement. Unrepresented groups will otherwise have no incentive to lay down arms. Even if the Syrian National Coalition was considered an adequate representative for the movement, the organization has made any peace negotiation conditional on the resignation of President Bashar al-Assad. Unsurprisingly, it is a point on which the Assad regime refuses to agree.

Problem #3: The fractured nature of the opposition movement. To determine who should represent the opposition, the movement must first find a rallying point. As discussed earlier, the movement currently offers almost an entire political and ideological spectrum under the single umbrella of “opposition.” When the opposition coalition is intact, it incorporates at least seven major movements: the Muslim Brotherhood, the Damascus Declaration, the National Bloc, the Local Coordination Committee, the Kurdish Bloc, the Assyrian Bloc, and Independents.¹⁰⁰ One of the problems is that the nature of the revolt has drastically shifted since it began back in

97. *Id.*

98. Robert H. Mnookin et al., *Barriers to Progress at the Negotiation Table: Internal Conflicts Among Israelis and Among Palestinians*, 6 NEV. L.J. 299, 300-01 (2005) (noting that broader demands to satisfy the more extreme members of a side essentially dooms negotiations across the table, while more palatable offers “risk[] turmoil and even violence ‘behind the table’ within each community”).

99. *Id.* at 301.

100. ELIZABETH O'BAGY, INST. FOR THE STUDY OF WAR, MIDDLE EAST SECURITY REPORT 4: SYRIA'S POLITICAL OPPOSITION 6 (2012), available at http://www.understandingwar.org/sites/default/files/Syrias_Political_Opposition.pdf.

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March 2011.¹⁰¹ Early protestors fought for political freedoms and the repeal of repressive laws.¹⁰² As the conflict dragged on, more radical factions jumped in.¹⁰³ While many of these groups shared the early protestors' goal of overturning the government, their ultimate objectives proved polarizing.¹⁰⁴ Some left the country and joined up with exiles, creating new political groups.¹⁰⁵ A number of smaller groups joined to become the Free Syrian Army,¹⁰⁶ attacking government checkpoints and facilities in retaliation for government strikes.¹⁰⁷ The dozens of groups involved are fragmented geographically, ideologically, and even by the influence of foreign backers.¹⁰⁸

Proposed Solution: The ultimate goal must be defined before the opposition can select who will represent this goal at the negotiation table. The various factions could first agree to cease hostilities, then move to the more complex questions of a transitional government (and Assad's role in it). Ultimately, any kind of solution will require an effort to include as many Syrian interests as possible.¹⁰⁹ Without such considerations, opposition

101. See Liz Sly, *Islamic Law Comes to Rebel-held Areas of Syria*, WASH. POST, Mar. 19, 2013, http://www.washingtonpost.com/world/middle_east/islamic-law-comes-to-rebel-held-syria/2013/03/19/b310532e-90af-11e2-bdea-e32ad90da239_story.html.

102. *Syria Profile*, *supra* note 22.

103. *Id.*

104. O'BAGY, *supra* note 100.

105. S.B., *supra* note 91.

106. This is merely a label, not a real organization. See *id.* There is no strict hierarchy or leadership; the title is a label to loosely group smaller factions together. See *id.* It does, however, "attract funding from expatriates, Gulf governments and private individuals who wanted to see Mr. Assad go." *Id.*

107. *Id.*

108. *Id.* See *infra* Problem #4 (discussing this influence of third parties on the peace negotiation process).

109. Vanessa J. Jimenez, *Iraq's Constitutional Process: Challenges and the Road Ahead*, 13 HUM. RTS. BRIEF 21, 22-23 (2005) (noting that the "ability of Iraqi leaders to forge a peaceful future will depend on the manner in which the government ensures that the unique identities, values, and

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leadership risks the loss of popular support, creating a new government with the same flaws of its predecessor. The challenge is parsing those interests out from the influence of third parties.

Problem #4: Influence of international interests. This seems to be the biggest hurdle to any attempt at brokering peace, whether through mediation or negotiation. In protracted conflicts, problems become more widespread. Everyone eventually has a stake. Turkey and Israel have been drawn into direct conflict with Syrian troops on several occasions,¹¹⁰ while Lebanon, Jordan, Iraq, Egypt, and other countries in North Africa have seen the arrival of tens of thousands of refugees seeking to escape the conflict.¹¹¹ In 2014, the U.N. refugee agency (UNHCR) requested \$6.5 billion in aid to support both refugees and internally displaced persons.¹¹²

While it is understandable that almost everyone may have an interest in the outcome of a conflict, these interests create problems when trying to establish common ground. Where the original protestors in Syria might have sought a more democratic political system, extremist fighters seek to install an Islamic state. Beyond those actively fighting, the Arab League wishes to end the ongoing threat of regional instability; and on an even broader scope, Russian leaders in the Kremlin wish to preserve the Assad regime in order to retain hold on their last remaining naval base outside of the former Soviet bloc, while U.S. officials would welcome the opportunity to weaken Russia's influence in the region. All manifest themselves in different ways: activists in Syria continue to fight, the Arab League offers monitoring missions, and the Russian and U.S. governments overtly or covertly continue arms sales to their respective interests.¹¹³

concerns of its diverse ethnic, religious, and national minorities are respected and given a voice in the governance of the country").

110. *Syria Profile*, *supra* note 22.

111. *Syrians Internally Displaced*, *supra* note 72.

112. *Id.*

113. This is not to suggest that Russia is alone in supplying arms to the Syrian conflict, merely that the Kremlin is a prominent example. Thomas Grove & Erika Solomon, *Russia Boosts Arms*

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Arming rebels is not a new tactic, but it is a risky one.¹¹⁴ If it fails to turn the tide of a conflict in one's favor, it can actually prolong it. Even more risky, as recent history has shown, arming rebel groups runs the risk of arms falling into the hands of extremist groups, empowering the groups the West seeks most to avoid.¹¹⁵ Fueling one side with arms only escalates a conflict, pushing allies of an opponent to respond in kind. Syria is a perfect model. Russia has repeatedly made efforts to ship arms to the Assad government; while the United States refuses to directly arm Syrian rebels, there is clear evidence that it and several western allies, including France, have done exactly that for opposition groups.¹¹⁶ Such influence has produced no clear results other than a rise in the death tolls and the arming of extremist groups.¹¹⁷

The influx of competing international interests is likewise an issue with a tendency to prolong conflict, bogging down negotiations as each party vies for its best outcome. While countries in the West seek resolutions on sanctions and military strikes through the U.N. in the hope of achieving humanitarian aims,¹¹⁸ Russia and China consistently use their veto power to

Sales to Syria Despite World Pressure, REUTERS, Feb. 21, 2012, available at <http://www.reuters.com/article/2012/02/21/us-syria-russia-arms-idUSTRE81K13420120221>; see also Liz Sly & Karen DeYoung, *In Syria, New Influx of Weapons to Rebels Tilts the Battle Against Assad*, WASH. POST, Feb. 23, 2014, http://www.washingtonpost.com/world/in-syria-new-influx-of-weapons-to-rebels-tilts-the-battle-against-assad/2013/02/23/a6bf2bc0-7dfb-11e2-9073-e9dda4ac6a66_story.html.

114. Mark Hosenball, *Congress Secretly Approves U.S. Weapons Flow to 'Moderate' Syrian Rebels*, REUTERS, Jan. 27, 2014, available at <http://www.reuters.com/article/2014/01/27/us-usa-syria-rebels-idUSBREA0Q1S320140127>; see also James Risen et al., *U.S.-approved Arms for Libya Rebels Fell Into Jihadis' Hands*, N.Y. TIMES, Dec. 5, 2012, http://www.nytimes.com/2012/12/06/world/africa/weapons-sent-to-libyan-rebels-with-us-approval-fell-into-islamist-hands.html?pagewanted=all&_r=0.

115. Risen et al., *supra* note 114.

116. Grove & Solomon, *supra* note 113; Hosenball, *supra* note 114.

117. Sly, *supra* note 101.

118. See *Civil War Horrors*, *supra* note 66. There are of course other interests involved here, such as regional stability and oil. United States President Barack Obama was not shy about his

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prevent U.N. intervention.¹¹⁹ The nexus of the conflict for these parties becomes the U.N., drawing focus and energy from the actual conflict.

The manner in which these mediations are conducted seems to exacerbate the problem—to borrow a well-known idiom, “too many cooks in the kitchen spoils the broth.” As discussed earlier, the use of mediation over negotiation seems the more promising choice.¹²⁰ That being said, allowing twenty-six countries, in addition to the five permanent members of the U.N. Security Council, the Secretary General of the League of Arab States, the High Representative of the European Union, and the Secretary General of the Organization of Islamic Cooperation to take part in the Geneva II Convention¹²¹ draws attention away from problem solving.¹²² For example, a dispute over Iran’s potential participation became the focal point of the conference for a solid week and a half, as the international community debated the merits of inviting the controversial state.¹²³ In that span of time, an untold number of people were killed, others wounded, and even more displaced.¹²⁴ Adding twenty-six more parties to the table means adding twenty-six more viewpoints to the discussions, each with individual interests and objectives.

intent to punish the Assad regime for its use of chemical weapons against civilians. Jeff Mason and Matt Spetalnick, *Obama Makes Case for Punishing Syria Over Gas Attack*, REUTERS, Aug. 28, 2013, available at <http://www.reuters.com/article/2013/08/28/us-syria-crisis-idUSBRE97K0EL20130828>.

119. *Syria Profile*, *supra* note 22.

120. *See supra* Part II.

121. This list does not even include the participants representing the Syrian government and the country’s opposition movement.

122. *See* Bama Atassi, *Explaining the Geneva II Peace Talks on Syria*, AL JAZEERA (Jan. 19, 2014), <http://www.aljazeera.com/indepth/features/2014/01/explaining-geneva-ii-peace-talks-syria-2014118142853937726.html>.

123. *Iran Invited to Geneva 2, Syrian Opposition Threatens to Withdraw*, RIA-NOVOSTI (Jan. 19, 2014), <http://rt.com/news/iran-invited-geneva-conference-867/>.

124. *Syrians Internally Displaced*, *supra* note 72.

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Proposed Solution: The simpler the conflict, the simpler the resolution. Removing as many conflicting interests as possible is a pathway to success. Syria's civil war is indelibly tied to differing political, religious, and cultural interests, and when the dust ultimately settles, it is the Syrian people who must be confident in the method through which they reconcile these differences. It is they who must pick up the pieces and try to move forward, and so it seems logical that the diverse interests of the Syrian people must take precedence in any mediation efforts. The international community has taken advantage of several opportunities they have had to lay out their own interests in the creation of proposals, like the Geneva Communiqué or the G8's seven-step plan for peace. There is no question that any resolution must be in accordance with accepted international law. While these proposals and declarations should unquestionably be submitted to the conflicting sides for consideration in working toward a resolution, attempting to reconcile the interests of twenty-six different countries adds unnecessary complications to the process. This conflict is dense enough without the added burdens of so many other parties.¹²⁵

Problem #5: Public scrutiny elevating the stakes. In the same vein, the nature of such publicized conferences, like Geneva I and Geneva II, encourage public scrutiny, raising expectations on an international scale. In such a protracted conflict, where the lines in the sand have been so clearly drawn, negotiations reach a point where anything less than a complete victory has the appearance of a loss. Participating countries enter with set goals and with the understanding that developments within the summit will largely become public knowledge. As evidenced by the disputed participation of Iran at the Geneva II Convention, this individual interest suggests that the priority at such summits is not achieving a common goal of peace but in pursuing individual interests and saving face on an international

125. Ideally, of course, this removal of conflicting interests would involve a cessation of arms shipments to either side, in the interest of ending the violent conflict as soon as possible. Realistically, this is unlikely to occur, especially given the difficulty in exposing exactly who is supplying what to whom.

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stage. Given the fractured nature of the Syrian opposition, risking the appearance of anything less than a complete victory is a risky proposition. A partial victory, as discussed above, runs a chance of alienating minority groups and prolonging conflict.

Proposed Solution: There has been some suggestion that peace in deeply entrenched conflicts is more often found through “quiet diplomacy” than on the international stage.¹²⁶ Negotiations handled without such concern for public image allow for more practical, and likely more productive, dialogue because special representatives and personal envoys acting in this capacity “tend not to reveal what they do and how they do it.”¹²⁷ This is a process that saw great success in solving conflicts in Northern Ireland, Haiti, Guatemala, the Balkans, and elsewhere.¹²⁸ When parties are not required to answer for every step of negotiation, posturing seems to take a backseat to practical problem solving. Moreover, not only would such a method reduce public scrutiny, but it would likewise diminish the number of voices present at the mediation table.

Problem #5: Who may act as mediator? Even after mediation efforts are pared down to involve the most affected parties, conflicting international interests complicate the process of selecting an unbiased third party to serve as mediator.¹²⁹ For there to be any hope of success, a mediator must have the trust of both parties, along with an ability to operate without bias.¹³⁰

126. Michael R. Fowler, *The Increasingly Complicated World of International Mediation*, 18 OHIO ST. J. ON DISP. RESOL. 977, 978 (2003).

127. *Id.*

128. Lavin, *supra* note 6, at 574-75.

129. This assumes, of course, that a third party mediator is appropriate. Russia and Iran have both pushed the idea that the ongoing conflict is entirely Syrian, and therefore, the Syrian people should be left to negotiate their own peace. Ilya Arkhipov et al., *Russia Warns U.S., NATO Against Military Aid to Syria Protests After Libya*, BLOOMBERG (June 2, 2011), <http://www.bloomberg.com/news/2011-06-01/russia-warns-u-s-nato-against-military-aid-to-syria-protests-after-libya.html>.

130. *The Right Mediator: How Do You Know?*, INT’L MEDIATION INST., <http://imimmediation.org/the-right-mediator-how-do-you-know> (last visited Oct. 30, 2014).

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Given the number of conflicting interests in this conflict, finding such a person or group is no easy feat. Religion, political ideology, humanitarian causes, and questions of regional stability are all tied to this conflict.

Proposed Solution: The most viable choice is Lakhdar Brahimi, current representative of both the U.N. and the Arab League.¹³¹

In negotiating peace for Northern Ireland, it was U.S. Senator George Mitchell's patience and his belief that there is "no such thing as a conflict that can't be ended . . . [that] [n]o matter how ancient the conflict, no matter how hateful, no matter how hurtful, peace can prevail,"¹³² that ultimately brought an end to the country's strife. By the time he served as a mediator in Ireland, Mitchell had developed a familiarity and, more importantly, a respect for the culture with which he was involved.¹³³ His work as the Majority Leader in the United States Senate moreover lent him experience in the process of understanding "trade-offs, communication, and effective listening."¹³⁴

Like Mitchell, Brahimi is an experienced mediator. An Algerian diplomat, Brahimi was involved in the resolution of conflicts ranging from Lebanon's 15-year civil war to the establishment of Iraq's first free elections in 2004.¹³⁵ Now serving in place of former U.N. Secretary General Kofi Annan as envoy to Syria, Brahimi is renowned for his patience and creativity.¹³⁶ Of equal importance, Brahimi has a familiarity with Islamic culture. Himself a member of the Sunni branch of Islam, Brahimi will find

131. Ian Black, *Geneva II Talks on Syria: Key Participants*, GUARDIAN, Jan. 24, 2014, <http://www.theguardian.com/world/2014/jan/24/geneva-ii-talks-syria-key-participants>.

132. GEORGE J. MITCHELL, TRUMAN INST. PEACE PRIZE ADDRESS: PRINCIPLES OF PEACE: NORTHERN IRELAND AND THE MIDDLE EAST 4 (June 8, 1999).

133. John D. Feerick, *The Peace-Making Role of a Mediator*, 19 OHIO ST. J. ON DISP. RESOL. 229, 236-37 (2003) (discussing the importance of symbols, such as what locations would be the venues for the talks that would take place and his decisions on how many people should be at each discussion).

134. Mitchell, *supra* note 132, at ix, 5.

135. Black, *supra* note 131.

136. *Id.*

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comfort with the “honor, dignity, and self-respect” valued in Muslim culture.¹³⁷ His familiarity with and respect for the norms of Muslim culture would be a significant advantage in bringing both sides together.

V. CONCLUSION

It would be naïve to assert that these five roadblocks are the only impediments to reaching peace in Syria. New issues seem to arise every day, ranging from economic and political to social questions. It is not the contention of this article that solving these few issues would lead to resolution or even accelerate progress toward a resolution. It *is* the contention of this article, however, that these five concerns must be addressed before there can be any hope for progress. The Syrian people must be allowed to determine their future, and international participation in that process must be limited to a point that it facilitates that determination, rather than bogging it down.

Solutions to armed conflict are never easy. And as the protracted negotiations in Syria have shown, nor are they quick. Only by focusing on Syrian interests, with an eye to minority protection as well as to majority, can peace eventually be found in Syria. Both sides must first agree on a shared goal of peace and find a framework for agreement in the hope of ultimately reaching that goal.

ADDENDUM: A BRIEF REVIEW OF WHAT HAS CHANGED FROM FEBRUARY TO SEPTEMBER

Nearly 2,000 people died in Syria in the first nine days of the Geneva II Conference,¹³⁸ and once more, participants in Geneva failed to produce any

137. See Joshua Berry, *The Trouble We Have with the Iraqis is Us: A Proposal for Alternative Dispute Resolution in the New Iraq*, 20 OHIO ST. J. ON DISP. RESOL. 487, 511 (2005).

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tangible results. Fighting continued in Syria throughout the spring of 2014, as both sides struggled to gain any momentum. Amid the continuing conflict, President Assad was somewhat inexplicably reelected in June for a third term by a landslide majority in government-controlled areas of the country.¹³⁹ Although the “election” marked the first time in decades that other candidates were permitted to run against a member of the Assad family, the exercise was viewed as little more than a farce by the West.¹⁴⁰

In August, U.N. officials declared the Syrian crisis “the biggest humanitarian emergency of our era,” noting that “[a]lmost half of all Syrians have now been forced to abandon their homes and flee for their lives.”¹⁴¹ Over three million Syrians have fled across the country’s borders, and experts estimate another six and a half million people have been displaced within Syria’s borders.¹⁴² At the end of August, the Human Rights Data Analysis Group placed the death toll since March 2011 at 191,369.¹⁴³

138. Reuters, *At Least 1,870 Die During Geneva Talks*, DAILY STAR, Jan. 31, 2014, <http://www.dailystar.com.lb/articleprint.aspx?id=246045&mode=print>.

139. *Syrian President Bashar al-Assad Wins Third Term*, BBC (June 5, 2014), <http://www.bbc.com/news/world-middle-east-27706471>. Regions in the north and east, held by rebels, were excluded entirely from voting. *Id.* Officials claimed that 11.63 million Syrians participated out of a total 15.85 million Syrians eligible to vote. *Id.* President Assad was credited with receiving 88.7% of the total votes, while his challengers, Hassan al-Nouri and Maher Hajar, received 4.3% and 3.2%, respectively. *Id.*

140. *Id.* United States Secretary of State John Kerry noted, “You can’t have an election where millions of your people don’t even have an ability to vote.” *Id.*

141. Nick Cumming-Bruce, *Syrian Refugees Surpass 3 Million, U.N. Says*, N.Y. TIMES, Aug. 29, 2014, http://www.nytimes.com/2014/08/29/world/middleeast/syrian-refugees-surpass-3-million-un-says.html?_r=0.

142. *Id.* Syria’s neighbors have been struggling under the weight of the onslaught. *Id.* Lebanon, which itself has a population under 5 million people, has taken in more than 1.1 million Syrian refugees, while Jordan has an estimated 608,000 and Turkey another 815,000, according to the United Nations High Commissioner for Refugees. *Id.*

143. Nick Cumming-Bruce, *Death Toll in Syria Estimated at 191,000*, N.Y. TIMES, Aug. 22, 2014, <http://www.nytimes.com/2014/08/23/world/middleeast/un-raises-estimate-of-dead-in-syrian-conflict-to-191000.html>.

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By far, however, the most significant shift in the ongoing conflict has been the emergence of the Islamic State (IS, formerly known as ISIS, the Islamic State of Iraq and Syria, or the Islamic State of Iraq and the Levant). A splinter cell of al-Qaeda, it is the IS's goal to create an Islamic state (governed by sharia law) that spans the Sunni regions of Iraq and Syria.¹⁴⁴ Since bursting onto the international scene in 2014, the group has been responsible for kidnapping schoolchildren for radical indoctrination; seizing airports, television stations, oil fields,¹⁴⁵ and cities; and brutally beheading western citizens.¹⁴⁶ By July of 2014, the IS was in control of all Syrian cities between Deir Ezzor and the Iraqi border—nearly 90 miles—as well as a significant portion of the Sunni region of Iraq.¹⁴⁷ In response, world leaders have pledged their respective militaries to combat the IS's growing influence.¹⁴⁸ To further complicate matters, the IS draws its radical recruits from every corner of the globe.¹⁴⁹ In short, since February, this once-internal struggle rapidly escalated into what is now unquestionably a global conflict.

Events since spring have made any attempt at mediation a distant hope. The IS has demonstrated its disinterest in any form of negotiation. There can be no hope of peace in Syria—or the region as a whole—until the threat

144. CNN Library, *ISIS Fast Facts*, CNN (Sept. 15, 2014), <http://www.cnn.com/2014/08/08/world/isis-fast-facts>.

145. On July 3, 2014, the IS took control of the al-Omar oil field, Syria's largest oil field, capable of producing 75,000 barrels of oil per day. *Id.*

146. *Id.*

147. Holly Yan & Samira Said, *Floodgates Open as ISIS Bridges Victories Between Syria and Iraq*, CNN (July 9, 2014), <http://www.cnn.com/2014/07/08/world/meast/syria-civil-war/>.

148. Editorial Board, *The Attack on ISIS Expands to Syria*, N.Y. TIMES, Sept. 10, 2014, <http://www.nytimes.com/2014/09/11/opinion/president-obamas-speech-on-isis-has-to-address-costs.html>.

149. There are recruits from Europe and the U.S., but experts point to Turkey as one of the largest sources of new recruits—over 1,000 new IS members have come from Turkey alone. Ceylan Yeginsu, *ISIS Draws a Steady Stream of Recruits from Turkey*, N.Y. TIMES, Sept. 15, 2014, <http://www.nytimes.com/2014/09/16/world/europe/turkey-is-a-steady-source-of-isis-recruits.html>.

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of the IS is addressed. Simplification, therefore, remains the watchword. To that end, the best that can be said for the radical group's rise to prominence is that it provides common ground (however slight) for pro-Assad and rebel forces, as well as the international community. There is no realistic hope that both sides will turn their collective arms on the IS, but as of the final writing of this article, the Islamic State holds nearly half of Syria's territory.¹⁵⁰ This newest obstacle must, by necessity, become the focus of the conflict before the two sides have any chance of finding a path toward peace.

150. See Yan & Said, *supra* note 147.